

MILMAN LABUDA LAW GROUP PLLC
3000 MARCUS AVENUE
SUITE 3W8
LAKE SUCCESS, NY 11042

TELEPHONE (516) 328-8899
FACSIMILE (516) 328-0082

Author: Jamie S. Felsen, Esq - Member
Direct E-Mail Address: jamie@mlaborlaw.com
Direct Dial: (516) 303-1391

March 10, 2021

VIA ECF

Magistrate Judge Steven L. Tiscione
United States District Court
Eastern District of New York
225 Cadman Plaza East, Courtroom N504
Brooklyn, New York 11201

Re: Star Auto Sales of Queens LLC v. Hanie Iskander, *et al.*
Case No.: 1:19-cv-06791-RPK-ST

Dear Judge Tiscione:

This firm represents plaintiff, Star Auto Sales of Queens LLC d/b/a Star Subaru, in the above-referenced action.

The dispute that the parties sought the court's intervention about during the deposition of non-party Douglas Filardo on March 2, 2021 concerns Mr. Filardo repeatedly testifying "I take the 5th", and then, in response to being asked whether, when he testified "I take the 5th", he meant that he was invoking his constitutional right against self-incrimination, Mr. Filardo responded that he was "taking the 5th" because the questions for which he "took the 5th" were not relevant to the case in which he was being deposed. Mr. Filardo was repeatedly told by Plaintiff's counsel that he was not permitted to "assert the 5th" because he did not believe the questions were relevant to this case and that he could only "assert the 5th" if he believes that answers to certain questions may incriminate him in a crime.

Plaintiff respectfully requests that the Court issue an order (1) precluding Mr. Filardo from "taking the 5th" at his continued deposition unless he believes that the answer to said question may incriminate him in a crime; (2) concluding that any occasion on which Mr. Filardo "took the 5th" during his deposition on March 2 means that Mr. Filardo believes that answers to such questions may incriminate him in a crime; and (3) striking all of Mr. Filardo's testimony when he provided a reason for "taking the 5th" other than that he thought it may incriminate him.

I have conferred with counsel for non-party Douglas Filardo and he and I are available on March 16 after 2 pm for a conference with the court to discuss this issue. If the court is not

Magistrate Judge Steven L. Tiscione
United States District Court Eastern District of New York
March 10, 2021
P a g e | 2

available on March 16, counsel will move their schedules around and make themselves available on March 15 after 2 pm.

Respectfully submitted,

/s/ Jamie S. Felsen

cc: Counsel of Record
Russell Moriarty, Esq. (via e-mail)